BEFORE THE WASHINGTON STATE
OFFICE OF THE INSURANCE COMMISSIONER

In the Matter of the Application regarding the Conversion and Acquisition of Control of Premera Blue Cross and its Affiliates, Washington Citizen Action, Welfare Rights Organizing Coalition, American Lung Association of Washington, Northwest Federation of Community Organizations, Northwest Health Law Advocates, Service Employees International Union Washington State Council, The Children's Alliance, Washington Academy of Family Physicians, Washington Association of Churches, Washington Protection and Advocacy System and Washington State NOW, Applicants for Intervention.	No. G02-45 MEMORANDUM IN SUPPORT OF APPLICANT-INTERVENORS' MOTION TO INTERVENE

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I. INTRODUCTION

Applicant-Intervenors, Washington Citizen Action, Welfare Rights Organizing Coalition, American Lung Association of Washington, Northwest Federation of Community Organizations, Northwest Health Law Advocates, Service Employees International Union Washington State Council, The Children's Alliance, Washington Academy of Family Physicians, Washington Association of Churches, Washington Protection and Advocacy System and Washington State NOW, which are consumer, provider, advocacy and citizen organizations affected by the proposed conversion of Premera Blue Cross, submit this Memorandum in support of their Motion to Intervene, filed in this action on October 14, 2002.

Since Applicant-Intervenors filed their Motion to Intervene, the Insurance Commissioner has issued his "First Order: Case Management Order" [hereinafter "First Case Management Order"], which described the process, responsibilities and filing requirements for persons seeking participation in the Premera conversion adjudicative hearing. First Case Management Order at 4-6. This Memorandum is filed to further explain Applicant-Intervenors' significant interest in the proposed Premera conversion, as required under the First Case Management Order.

Applicant-Intervenors are all consumer, provider and advocacy organizations with membership or constituencies that have a significant interest in advocating to protect Washington's health system. Above and beyond their broad interest in the health system, Applicant-Intervenors have a direct, specific interest in the proposed Premera conversion because they represent Premera enrolled participants, participating providers, and purchasers of Premera coverage who have a direct pecuniary interest in the transaction. See e.g. Declarations

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of Barbara Flye; Vicki Black; and Ellie Menzies. Moreover, Applicant-Intervenors have worked for many years on health care conversion issues, developing special expertise on the impact of conversions on access to health care and health coverage. Id.

Applicant-Intervenors, their current and past members and constituencies have helped to found the predecessor organizations to Premera, supported their enactment through special legislative designations, nurtured the company's growth through community goodwill and preferential treatment, and counted on Premera as a foundational support to Washington state's health system. Applicant-Intervenors and the members and constituencies that they represent are also beneficiaries or at least potential beneficiaries of the nonprofit assets that are currently held by nonprofit Premera. As beneficiaries, Applicant-Intervenors have a significant interest in the nonprofit assets held by Premera, their proper valuation and any proposed designation of their use after Premera converts. Id.

Given the current health care precipice upon which our state stands,[1] Applicant-Intervenors are concerned that the proposed conversion could significantly deepen the crisis. Applicant-Intervenors seek to intervene to ensure that the health concerns of their members and constituencies are addressed and not harmed by the proposed conversion.

II. APPLICANT-INTERVENORS' INTEREST

Applicant-Intervenors represent a broad array of consumers, providers, health care workers, health policy advocates and other stakeholders in the health system that have a significant interest in the proposed Premera conversion. Submitted with this Memorandum are

[1] See *1 in 10 Washington Residents Now Without Health Insurance*, Kyung M. Song, Seattle Times, November 22, 2002.

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declarations from representatives of the Applicant-Intervenors, describing the organizations' direct and significant interest in Premera's proposed transaction. See Declarations of Barbara Flye of Washington Citizen Action, Jean Colman of the Welfare Rights Organizing Coalition, LeeAnn Hall of the Northwest Federation of Community Organizations, Janet Varon of Northwest Health Law Advocates, Ellie Menzies of the Service Employees International Union Washington State Council, Elizabeth Arjun of The Children's Alliance, Vicki Black of the Washington Academy of Family Physicians, Julie Watts of the Washington Association of Churches, Mark Stroh of Washington Protection and Advocacy System, and Linda Tosti-Lane of the Washington State Chapter of the National Organization for Women [hereinafter known collectively as Declarations of Applicant-Intervenors].

Applicant-Intervenors represent members and constituencies that include Premera enrolled participants that will be significantly affected if the proposed Premera conversion is approved. Premera enrollees in Medicaid Health Options, the Basic Health Plan, the State Children's Health Insurance Program and other state-sponsored health coverage, as well as privately purchased coverage, will be affected by changes in Premera's business plan, rates, benefit packages, provider reimbursement rates, administration, and utilization review, among other changes. For example, Medicaid Healthy Options enrollees experienced serious dislocation and difficulty when Regence Blue Shield discontinued its participation in the Healthy Options program in many parts of the State. See Declaration of Janet Varon at 4. Applicant-Intervenors fear that Premera enrollees will face the same barriers to care if Premera pulls out of their region. Id. Moreover, the impact of a significant change in Premera's business plan will have a "ripple effect," impacting individuals, providers and businesses that may have no direct

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relationship with Premera. Id. at 5-6. Similarly, Premera participating providers will be significantly affected by changes to Premera's business plan and provider reimbursement rates. See Declaration of Vicki Black at 2-3.

Applicant-Intervenors are also beneficiaries of the nonprofit assets accumulated over time by Premera and its predecessor corporations. Both predecessor corporations to Premera Blue Cross – The Medical Services Corporation of Spokane County (later the Medical Services Corporation of Eastern Washington) and the Washington Hospital Service Association (later known as Blue Cross of Washington and Alaska) were dedicated to nonprofit health care purposes in Washington and Alaska. See Declaration of Eleanor Hamburger at 2-6, Exhibits 1-7. Since those corporations have merged into Premera Blue Cross and created a parent nonprofit, Premera, their assets have been dedicated to another similar nonprofit upon dissolution or conversion. Id. In its proposal, Premera has indicated its agreement to transfer its nonprofit assets to nonprofit health foundations in Washington and Alaska. Premera Form A statement at 3. Accordingly, Applicant-Intervenors and the members and constituencies that they represent, the various health care consumers in Washington state, are beneficiaries of the nonprofit assets held by Premera. See Hawes v. Colorado Div. of Ins., 32 P.3d 571, 573 (Colo. Ct. App. 2001) (a coalition of nonprofit and public interest organizations was properly granted full intervention status in a conversion proceeding because the organizations were potential recipients of the foundation to be formed as a result of the transaction).

Applicant-Intervenors have a significant vested interest in the proper nonprofit dedication of the assets held by Premera. Applicant-Intervenors' significant interest is rooted in common law tradition, and is embodied in the Washington Nonprofit Corporations Act, which

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recognizes that the assets of a nonprofit corporation are held dedicated to a particular purpose and may not be freely alienated. See RCW 24.03.225; 230; 255; 265. Under the charitable trust doctrine and cy pres, the nonprofit assets held by Premera are dedicated in perpetuity to the nonprofit mission under which they were initially formed: making health care and coverage more affordable and accessible to persons in Washington and Alaska. See Peth v. Spear, 63 Wash. 291, 115 P. 164 (1911). (Charitable trust is formed when documents describe the use of the property in question as dedicated to the benefit of members of an unincorporated association); Puget Sound Bank v. Easterday, 56 Wn.2d 937, 949; 350 P.2d 444, 450 (1960)(discussing the doctrine of cy pres).

III. ARGUMENT

A. Applicant-Intervenors' "significant interest" is affected by the proposed Premera conversion, and they should be permitted to participate in the adjudicative hearing.

Both the Holding Company Act for Insurers, enacted in 1993, and the Holding Company Act for Health Care Service Contractors and Health Maintenance Organizations, enacted in 2001, permit the participation in the adjudicative hearing by persons whose "significant interest" is determined by the Insurance Commissioner to be affected. RCW 48.31C.030(4); RCW 48.31B.015(4)(b). Neither Holding Company Act, nor the implementing regulations, define

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"significant interest."[2] This term first appears in the context of insurance law in a Washington Supreme Court case, Kueckelhan v. Federal Old Line Insurance Company, 69 Wn.2d 392, 411, 418 P.2d. 443, 455 (1966). In that case, a mutual insurance company challenged the Insurance Commissioner's authority to possession of the company under the Commissioner's statutory rehabilitation powers. The Court found that the Insurance Commissioner's regulatory powers were constitutional, and commented that a company's "policyholders, its creditors and the public have a *significant interest*" in the company's investments, and that their interest "demands a standard of conduct beyond the ordinary." Id. (Emphasis supplied.)

The Legislature is presumed to be aware of existing caselaw when it enacts statutes. In re Marriage of Williams, 115 Wn.2d 202, 208, 796 P.2d 421, 424 (1990). By specifically incorporating the term "significant interest" into both Holding Company Acts, one can infer that the Legislature intended to incorporate the Supreme Court's finding that policyholders, creditors and the public be included in the definition of "significant interest" when it enacted RCW 48.31C.030(4) and 48.31B.015(4)(b). Applicant-Intervenors are organizations that represent Premera enrolled participants and purchasers of insurance coverage (policyholders), participating providers (creditors) as well as likely beneficiaries of the nonprofit health assets held by Premera. See generally Declarations of Applicant-Intervenors, and discussion supra at II.

[2] Although the Washington Holding Company Acts are based upon the Insurance Holding Company System Regulatory Act authored by the National Association of Insurance Commissioners (NAIC), the term "significant interest" does not appear in the relevant section of the Model Act, nor does its legislative history shed any light on the use of this term. See generally NAIC Insurance Holding Company System Regulatory Act and Legislative History, dated November, 2001.

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Accordingly, Applicant-Intervenors have a significant interest in the proposed Premera conversion.

The Legislature recognized that transactions regulated under the Holding Company Acts would be so complex that the Office of the Insurance Commissioner may not be able to represent fully every interest of the general public that may be impacted by a change of control of a health carrier. Accordingly, the Legislature included the provision that persons with "significant interest" as determined by the Insurance Commissioner, should participate in the hearing, in order to protect their rights. In fact, the Legislature deemed the involvement of persons with "significant interest" so important that it granted them the same rights of participation as health carriers at the adjudicative hearing. RCW 48.31C.030(4); RCW 48.31B.015(4)(b).

While the Office of the Insurance Commissioner is mandated to represent the interests of the general public in transactions under the Holding Company Acts, RCW 48.01.030; 48.02.060; 48.31C.030; 48.31B.015, the OIC's statutory authority and mandate does not diminish the Applicant-Intervenors' independent, significant interest. Nothing in the Holding Company Acts limits the participation of persons with significant interest to those subjects not addressed by the OIC staff. However, Applicant-Intervenors in this case seek participation, not to duplicate the effort by the OIC staff, but to enhance the Insurance Commissioner's review and to raise issues that may not be addressed by the OIC staff or consultants.

B. Applicant-Intervenors are "aggrieved" persons and are entitled to participate in the adjudicative hearing.

In addition to the specific intervention rights conferred on Applicant-Intervenors under RCW 48.31C.030, Applicant-Intervernors are entitled to participate as full parties in the

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adjudicative hearing because they are aggrieved by the possibility that the Commissioner's determination regarding Premera's conversion proposal will prejudice their interests.

The Insurance Code establishes the right of aggrieved persons to an adjudicative hearing on any action, threatened action, or failure to act by the Insurance Commissioner. RCW 48.04.010; 48.31C.140. In the First Case Management Order, the Commissioner declared that he would preside over an administrative hearing to determine whether Premera's petition to convert to for-profit status should be approved. First Case Management Order at 2. Explaining the statutory authority for such a hearing, the Commissioner stated:

> The Holding Company Act specifies that the hearing held by the Insurance Commissioner in connection with his review of the Application shall be conducted as an adjudicative proceeding, resulting in a final administrative order. *See* RCW 48.31B.070; RCW 48.31C.030 and 140.

First Case Management Order at 2. Therefore, the jurisdiction of the adjudicative hearing includes requests by "aggrieved" persons under RCW 48.31C.140 and RCW 48.04.010.[3]

Nowhere in Titles 48 or 34.05 RCW, nor in their implementing regulations, is the term "aggrieved" defined in the context of providing entitlement to an adjudicative proceeding. However, the Administrative Procedures Act (APA) does define the term "aggrieved" person in the context of standing to seek *judicial* review, which sheds light on the appropriate use of the term within the Insurance Code. See RCW 34.05.530 (defining a three factor test for standing to seek judicial review of an agency action under the APA). Since the Insurance Code permits "aggrieved" persons to request an adjudicative hearing when they are merely *threatened* by a

[3] Applicant-Intervenors' Motion for Intervention included RCW 48.04.010 as a basis for their participation in the adjudicative hearing.

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potential decision of the Commissioner, RCW 48.04.010(b), the three factor definition in RCW 34.05.530 should be read as follows in the present proceeding:

> A person is aggrieved or adversely affected within the meaning of this section only when all three of the following conditions are present:
> (1) The agency action *or failure to act* has prejudiced or is likely to prejudice OR The agency action *or failure to act threatens to* prejudice or is likely to *threaten to* prejudice AND
> (2) That person's asserted interests are among those that the agency was required to consider when it engaged in the agency action challenged; AND
> (3) A judgment in favor of that person would substantially eliminate or redress the prejudice to that person caused or likely to be caused by the agency action, *the threatened action or failure to act*.
>
> The three-factor definition in the APA has been explained as follows:
>
> > These three conditions derive from federal caselaw [citation omitted]. The first and third conditions are often called the "injury-in-fact" requirement and the second condition is known as the "zone of interest test."

Washington Independent Telephone Association, 110 Wn. App. 498, 511-12, 41 P.3d 1212, 1219 (2002) *citing* Seattle Bldg. & Const. Trades Council v. Apprenticeship and Training Council, 129 Wn.2d 787, 793, 920 P.2d 581, 583-84 (1996). To the extent that the criteria are applicable to requests for a hearing under the Holding Company Acts, the Applicant-Intervenors satisfy them all.

1. Zone of Interest

This "test is not meant to be especially demanding." Clarke v. Securities Industry Ass'n, 479 U.S. 388, 399, 107 S. Ct. 750, 757, 93 L.Ed.2d 757, 769 (1987). "'The test focuses on whether the Legislature intended the agency to protect the party's interest when taking the action at issue' St. Joseph Hosp. [& Health Care Ctr. v. Dep't of Health], 125 Wn.2d [733], 739-40,

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887 P.2d 891 [(1995)]." Seattle Bldg. & Const. Trades Council v. Apprenticeship and Training Council, 129 Wn.2d 787, 797, 920 P.2d 581, 585 (1996).

In the general area of insurance regulation, the Legislature explicitly recognized a broad public interest that Title 48 is aimed at protecting:

> The business of insurance is one affected by the public interest, requiring that all persons be actuated by good faith, abstain from deception, and practice honesty and equity in all insurance matters. Upon the insurer, the insured, their providers, and their representatives rests the duty of preserving inviolate the integrity of insurance.

RCW 48.01.030. Moreover, the Legislature explicitly authorizes the Commissioner to disallow insurance company transactions of the sort at issue here if he finds a negative impact on a bevy of areas related to the availability of health care coverage, the interests of subscribers and the "insurance-buying public." See RCW 48.31C.030(5)(a)(ii)(B) and (C). The Applicant-Intervenors, who are all consumer and provider advocacy groups whose constituencies have significant interests in the impact of Premera's proposed conversion on the availability, price and quality of health care and health insurance all fall within the broad sphere of the public whose direct and substantial interests the Commissioner is explicitly required to consider in deciding whether to approve the transaction.

2. Injury-in-fact

As noted above, the first and third conditions can be collapsed into one requirement, characterized as the "injury in fact." In this case, the proper standard for determining "injury" is whether there is an injury in fact, or whether there is the possibility of an action or failure to act which could result in injury in fact to the person requesting a hearing. Under such a definition, Applicant-Intervenors are clearly aggrieved by the possibility that the Commissioner may rule

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against their interests as a result of his review of the Premera proposed conversion. Applicant-Intervenors' constituents, Washington's residents from all areas of the State and sectors of the community, many of whom are low-income and/or disabled, have a significant interest in seeing that Premera's conversion does not result in increases to insurance rates, diminishment of benefits offered to subscribers, and withdrawal by Premera from certain markets. See Discussion at II, supra. Similarly, Applicant-Intervenor groups have a significant interest in the protection, dedication, enhancement and distribution of the proceeds from the conversion, should it go forward. Id. The possibility that the Commissioner's determination on the proposed conversion may prejudice Applicant-Intervenors' interests, constitutes "injury" under the test, and entitles them to participation in the adjudicative hearing, pursuant to RCW 48.31B.070, 48.31C.140, 48.04.010(b) and 34.05.413.

C. Applicant-Intervenor WPAS' federal authority to protect and advocate for the rights of persons with disabilities in administrative and other fora strengthens its significant interests affected and prejudiced by Premera's threatened conversion and provides an independent basis for its intervention.

In passing the "Protection and Advocacy" Acts,[4] Congress required that each state establish a system to protect and advocate for the rights of persons with mental illness, developmental disabilities, and other disabilities. Congress has specifically mandated that each state-designated protection and advocacy system ("P&A") shall have the authority to pursue

[4] These include the "Developmental Disabilities Assistance and Bill of Rights Act" (DDA), 42 U.S.C. §15041, et seq., the "Protection and Advocacy for Individuals with Mental Illness Act" (PAIMI), as amended, 42 U.S.C. § 10801, et seq.; and the "Protection and Advocacy for Individual Rights" (PAIR), 29 U.S.C. § 794e.

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administrative, legal and other remedies to ensure the protection of and advocacy for the rights of disabled individuals. 42 U.S.C. §§ 10805(a)(1)(B), (C), § 15043(a)(i), 29 U.S.C. § 794e(3).[5]

Courts have recognized that, in conferring this broad authority on P&A's, Congress intended to grant the P&A's independent standing to advocate for the interests of persons with disabilities in administrative and legal matters. See Rubenstein v. Benedectine Hospital, 790 F.Supp. 396, 408 (N.D.N.Y. 1992); Trautz v. Weisman, 846 F.Supp. 1160, 1163 (S.D.N.Y. 1994). To underscore this holding, when Congress reapproved the DDA, [6] it specifically articulated its intent to grant P&A's standing .[7] S. Rep. No. 103-120, 103rd Cong., 1st Sess., 8/3/93.

WPAS has been designated by the Governor as the P&A with the federal authority and mandate to protect and advocate for the rights of persons with disabilities in this State. Declaration of Mark Stroh ¶¶ 3-5; RCW 71.08.080.[8] Under its federal mandate, WPAS has exercised its authority to establish "health care access for people with disabilities" as priorities

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[5] The language of the three statutes granting this authority is nearly identical, with minor exceptions. The DDA and PAIR, which were amended and reauthorized in 2002 are even broader than PAIMI in their statutory grants of such authority, reflecting a Congressional intent to widen P&A's ability to advocate for their constituents.

[6] The subsequently enacted PAIR explicitly confers on P&A's "the same general authorities" to advocate for persons with all disabilities not covered by the DDA and PAIMI as are granted to P&A's to advocate for persons with developmental disabilities. 29 U.S.C. § 794e(f)(2).

[7] "The Committee heard testimony about the waste of scarce resources that are expended on litigating the issue of whether [protection and advocacy] systems have standing to bring suit. The Committee wishes to make clear that [protection and advocacy systems have standing to pursue legal remedies to ensure the protection and advocacy for the rights of individuals with developmental disabilities within the State. The Committee has reviewed and concurs with the holding and rationale in Goldstein v. Coughlin, 83 F.R.D. 613 (1979) and Rubenstein v. Benedictine Hospital, 790 F.Supp.396 (N.D.N.Y. 1992)." S. Rep. No. 103-120, at 39-40.

[8] This statute reiterates the requirement that the P&A "shall have the authority to pursue legal, administrative, and other appropriate remedies to protect the rights of" persons with disabilities.

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for the agency's advocacy.[9] Declaration of Stroh ¶¶ 7-8. Given the broad negative impact that Premera's conversion is likely and threatens to have on the access to health care afforded to persons with disabilities, it falls squarely within WPAS' priorities, authority and mandate to participate in this administrative hearing to advocate for and protect its constituents' and its own significant interests.[10] See Declaration of Stroh ¶¶ 5-12; Declaration of Varon at 4; §II, III(A), (B) supra. See also RCW 48.31B.015(4)(b) and .070; 48.31C.030(4) and .140.

Further, courts have recognized that the unique experience and expertise that P&A's possess concerning the rights of and issues that impact persons with disabilities provides strong support for permitting P&A's participation and intervention in cases concerning such issues. See Naughton v. Bevilacqua, 458 F.Supp. 610 (D.R.I. 1979); Goldstein, 83 F.R.D. at 615.[11] WPAS not only possesses this general expertise but also has a wealth of specific experience in analyzing

[9] See e.g., 42 U.S.C. § 10805 (a)(6), (c); 42 U.S.C. §§ 15043(2)(C), 15044(a); 29 U.S.C. § 794e(f)(2) detailing P&A authority and process to set priorities with public comment.

[10] It also falls within WPAS' mandate to advocate for its constituents' interests and its own interests as potential beneficiaries of whatever foundation may be created to continue to promote the public purposes to which Premera's assets are devoted. See Hawes, 39 P.3d at 573-74. Further WPAS has significant communicative rights under the First Amendment (see Developmental Disabilities Center v. Melton, 689 F.2d 281, 287 (1st Cir. 1982)), Art. 1, §5 of the Washington State Constitution and 42 U.S.C. § 15043(2)(L); 29 U.S.C. § 794e(f) (P&A's have the authority to educate policymakers) to express the concerns of its constituents and the agency itself regarding the impact and form of Premera's conversion and transfer of its assets in the public proceeding on this issue. The denial of Applicant-Intervenor's Motion to Intervene would substantially prejudice those significant interests.

[11] "Intervention by proposed intervenors [Rhode Island Protection and Advocacy System], whose insight into the problems and statutory protection of the developmentally disabled has already proved valuable, is granted." Naughton v. Bevilacqua, 458 F.Supp. 610, 616 (D.R.I. 1979). "[I]ts [New York Protection and Advocacy System for Developmental Disabilities] expertise may be valuable as the case proceeds, especially with respect to issues which are not strictly confined to the condition of [the named plaintiff] Therefore, defendants' motion [to dismiss for lack of organizational standing] is denied." Goldstein v. Coughlin, 83 F.R.D. 613, 615 (W.D.N.Y. 1979).

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the issues that impact the rights to health care coverage of persons with disabilities and advocating for the protection of those rights. Declaration of Stroh ¶¶ 8-9, 14. Particularly when combined with the complementary resources and experience of other Applicant-Intervenors, this insures that information concerning the health impact of Premera's conversion on a wide spectrum of Washington's most vulnerable citizens will be provided to the Commissioner in a depth and from a perspective that he is otherwise unlikely, if not unable, to receive. See § III D infra.; see also RCW 34.05.443.

D. Full participation by Applicant-Intervenors will enhance the effectiveness and efficiency of the proceeding, not impair it.

The First Case Management Order indicates that the Insurance Commissioner may place conditions upon an intervenor's participation, including limiting an intervenor's participation, use of discovery, cross examination, and requiring two or more intervenors to combine their presentations.[12]

[12] Applicant-Intervenors do not concede that their role as Intervenors may be limited, if they are determined to be participants with significant interests affected by the proposed Premera conversion, as discussed in Section III. A., supra. The plain language of the statute grants participants with significant interests the same rights as health carriers to discovery, examination and cross examination of witnesses, and oral and written argument. RCW 48.31C.030 (4); 48.31B.015(4)(b). Nothing in the Holding Company Acts limits the rights of participants with "significant interests."

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Applicant-Intervenors seek full party status, in order to adequately represent their members' and constituencies' interests in the adjudicative hearing.[13]

Applicant-Intervenors require the use of discovery, examination and cross-examination and argument rights in order to protect their interests. Applicant-Intervenors seek to participate in the adjudicative hearing in order to raise concerns about the health impact of the proposed Premera conversion, to ensure full valuation of Premera's nonprofit assets, and, in the event the Insurance Commissioner allows the transaction to proceed, to ensure the adequate funding and independence of the foundation or foundations formed as a result of the conversion.

If permitted full participation in the adjudicative hearing, Applicant-Intervenors will commission an impartial health impact study of the proposed conversion. Declarations of Applicant-Intervenors and Declaration of Eleanor Hamburger at 6-7. Applicant-Intervenors hope to finalize their agreement with a possible expert or experts to conduct the health impact evaluation within the next few weeks. Id. The expert or experts will conduct a broad, impartial analysis of the potential impact of the Premera conversion on Washington's health system, which should complement the evaluations and expert analyses conducted by the OIC consultants. Id.

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[13]Similar coalitions of consumer and provider organizations have been granted full party status in conversion reviews in other states. For example, in Colorado, the Colorado Health Care Conversion Project, comprised of various nonprofits and public interest groups, was permitted full party status. See Hawes v. Colorado Div. of Ins., supra, 32 P.3d at 573. Similarly, the DC Appleseed Center for Law and Justice, part of a consumer and provider coalition called "Carefirst Watch" has been granted full party status in the pending adjudicative review of Carefirst's conversion in Washington DC, as has a coalition of 21 community organizations in the adjudicative hearing regarding the conversion of New Mexico Blue Cross and Blue Shield. Declaration of Eleanor Hamburger at 6, Exhibits 8, 9. It has been reported that other consumer groups have been granted the right to participate formally in adjudicative hearings to review conversion transactions in Kansas, Maine, and New Hampshire. See "Blue Cross Blue Shield Update – May 2002," Consumers Union, at http://www.consumersunion.org/health/bcbs602.htm.

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Additionally, Applicant-Intervenors intend to evaluate thoroughly the full Form A filing and related documents submitted by Premera to the OIC, depositions and written testimony submitted by Premera employees, the reports and testimony by the OIC consultants and the relevant valuation and securities issues, nonprofit corporation and tax issues, philanthropic formation and foundation issues, among others, as part of its intervention in the proposed Premera conversion. Id. Given the Applicant-Intervenors' long-standing history of advocacy on health care conversion issues, their access to national consumer advocates and experts on health care conversions, and their knowledge of the intricacies of Washington's health system, Applicant-Intervenors' participation can only enhance the range of helpful information available to the Insurance Commissioner as he makes his determination regarding the Premera proposal.

Applicant-Intervenors will participate in the adjudicative hearing as efficiently as possible, while representing their clients' interests. Applicant-Intervenors have already combined their individual efforts into a coalition of like-minded consumer, provider and advocacy organizations. Additionally, Applicant-Intervenors have worked collaboratively with other potential intervenors, such as the Washington State Hospital Association and the Washington State Medical Association, by submitting a joint brief on their Response to Premera's Motion for Partial Reconsideration and Clarification, coordinating on meetings with the OIC staff and sharing information. Applicant-Intervenors are confident that they have the resources, skills and experience to ensure that their participation will be efficient and will not interfere with a timely resolution to the Premera review under the Holding Company Acts. Moreover, Applicant-Intervenors will, in fact, provide the Insurance Commissioner and the public with significant, important information regarding the impact of the proposed conversion

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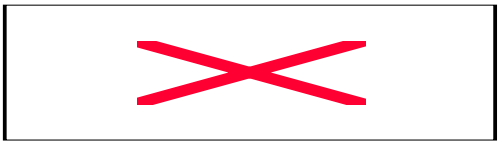
on our health system. Given these important and reasonably efficient contributions Applicant-Intervenors bring to the process, Applicant-Intervenors should be granted full intervenor status. See RCW 34.05.443.

IV. CONCLUSION

Applicant-Intervenors should be granted full participation in the adjudicative hearing regarding Premera's proposed conversion.

Dated this 26th day of November, 2002.

Respectfully submitted by:



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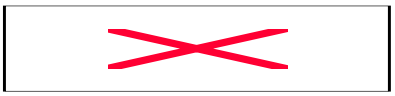

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